

1967

Present : Alles, J.

M. S. SEEDIN, Appellant and N. SAMBANDAN, Respondent

*S. C. 29/66—Labour Tribunal, 2/25052**Industrial Disputes Act (Cap.131)—Section 31B (1) (b)—Effect of the words “ are due ”.*

When the President of a Labour Tribunal considers whether a workman should be paid any gratuity under the provisions of section 31B (1) (b) of the Industrial Disputes Act, he is entitled to make any order which he considers just and equitable.

APPEAL from an order of a Labour Tribunal.

Lakshman Kadirgamar, for applicant-appellant.

No appearance for employer-respondent.

Cur. adv. vult.

June 16, 1967. ALLES, J.—

The question of law which arises for consideration in this case under section 31B (2) of the Industrial Disputes Act (Chapter 131) is whether the President of the Labour Tribunal should have disallowed the applicant's claim to the payment of a gratuity, in view of the decision of the Privy Council in *United Engineering Workers Union v. Devanayagam*.¹

In not entertaining the applicant's claim for gratuity, the learned President has followed the decision of the Supreme Court in *Richard Peiris & Co. v. Wijesiriwardene*², where T. S. Fernando, J. in construing the words, “ the question whether any gratuity or other benefits are due ” held that the words “ are due ” in the above section meant “ are legally due ”. The Privy Council in the above-mentioned case has held that the decision in *Richard Peiris & Co. v. Wijesiriwardene* was

¹ (1967) 69 N. L. R. 289 at p. 300.

² (1960) 62 N. L. R. 233.

wrong. In view of the Privy Council decision, in construing the words “are due” in section 31B (1) (b) as not being “are legally due” the President of the Labour Tribunal is entitled to make any order which he considers just and equitable on the question of gratuity.

I, therefore, remit this case for a decision by the President, W. E. M. Abeysekera, for the limited purpose of deciding whether in the circumstances of this case any gratuity should be paid to the applicant under the provisions of section 31B (1) (b) of the Industrial Disputes Act. There will be no costs of this application.

Case sent back for further proceedings.
